

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES FORBES,

Plaintiff,

15-CV-3458 (GHW)

-against-

NOTICE OF MOTION
TO DENY THE SUMMARY
JUDGMENT PURSUANT TO
FRCP 56

THE CITY OF NEW YORK,
SERGEANT PATRICK ROMAIN, SHIELD
NO: 5132

Defendants

TO: HONORABLE GREGORY H. WOODS

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PLEASE TAKE NOTICE that plaintiff in this above captioned matter will move this Court for an Order denying the conversion of defendants' motion for summary judgment under FRCP 12(b)(6), along with their Motion of Motion to Dismiss pursuant to FRCP 12.1 [cloaked under local Rule statement] on the grounds that:

THE HEREIN ANNEXED "CERTIFICATE OF DISPOSITION" AFFIRMS THAT THE ARREST AND MALICIOUS PROSECUTION CHARGES HAVE BEEN DISMISSED BY THE LOWER COURT IN PLAINTIFF'S FAVOR ON 11/23/11, BY JUDGE D. BOYAR, IN PART A OF THE CRIMINAL COURT OF THE CITY OF NEW YORK, UNDER DOCKET NUMBER 2011 NY044136, WILL SERVE TO CONTROVERT EVIDENCE AND OPPOSE THE DEFENDANTS'S SUMMARY JUDGMENT MOTION, ALONG WITH THE FACT THAT THE DEFENDANTS'S HAS FAILED TO OPPOSE PLAINTIFF'S OBJECTION TO HIS CLAIM OF ARREST AND MALICIOUS PROSECUTION; (2) PLAINTIFF'S CLAIMS RELATE BACK TO CLAIMS UNDER FRCP 15(c)(1)(c); (3) PLAINTIFF JOHN DOE WAS A MISTAKE UNDER RULE 15(c)(1)(a); - AND PLAINTIFF'S CLAIMS UNDER CPLR 203, 1024; - AND PLAINTIFF'S REMAINING CLAIMS

PLEASE TAKE FURTHER NOTICE that any affidavit or affirmation be served on plaintiff Fourteen (14) days or two weeks [excluding Saturdays & Sundays] in advance of a returnable date. CPLR 2214.

Dated: May, 2016
Ossining, New York

Respectfully Submitted,


/S/ James Forbes

TO: Office of Corporation Counsel
Attn: Richard Bahrenburg
100 Church Street
New York, N.Y. 10007